

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

**DEPARTMENT OF TREASURY**

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July 13, 1983

**Bulletin No. 13**

**TO:** Assessors and County Equalization Directors

**FROM:** State Tax Commission

**SUBJECT:** Attorney General Opinion No. 6167 - Real Property Statements  
Attorney General Opinion No. 6141 - Tax Rates for Annexing School  
Districts

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAXATION:

State Tax Commission--  
authority to require owner  
of real property to disclose  
information relating to  
purchase price of property

The State Tax Commission may require an owner of real property to furnish information as to the purchase price of the property.

Opinion No. 6167

Mr. Mark E. Luoma  
Prosecuting Attorney  
Alger County  
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Munising, Michigan 49862

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You have requested my opinion whether the State Tax Commission, under current law, has the authority to require an owner of real property in the State of Michigan to disclose information concerning that property's purchase price. You indicate that you believe that 1966 PA 134, § 11, as last amended by 1968 PA 327; MCLA 207.511; MSA 7.456(11), evidences the legislative intent that a purchaser of real property need not disclose the purchase price of the property to the State Tax Commission.

The State Tax Commission is the administrative agency charged with the general supervision of the General Property Tax Act, 1893 PA 206; MCLA 211.1 et seq; MSA 7.1 et seq.

Section 150 of 1893 PA 206, supra, provides in pertinent part that:

"It shall be the duty of the commission:

"(1) To have and exercise general supervision over the supervisors and other assessing officers of this state, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this state liable to assessment for taxation shall be placed upon the assessment rolls and assessed at that proportion of true cash value which the legislature from time to time shall provide pursuant to the provisions of article 9, section 3 of the constitution.

....

"(5) To furnish the state board of equalization at each session thereof an estimate of the actual cash value of the taxable property of each county in the state, and to meet with the state board of equalization when requested by said board to do so."

To enable the State Tax Commission to adequately perform its mandated duties, the Legislature has provided the State Tax Commission with the necessary power to examine and investigate the transfer of property within the state.

1893 PA 206, supra, § 18, provides, in part, that:

"Whenever ... the state tax commission deems it necessary in the proper administration of this act to require from any person a written statement under oath of real property assessable to such person, it shall notify the person, and every such person, natural or legal, shall make such statement."

1893 PA 206, § 19; MCLA 211.19; MSA 7.19, provides:

"The written statement under oath, provided for in section 18 shall be in such form and of such content as may be prescribed by the state tax commission..."

Finally, 1893 PA 206, § 148; MCLA 211.148; MSA 7.206, provides, in pertinent part:

"The commission or any duly authorized representative thereof shall have the right ... to require, upon blanks to be furnished by the commission, a statement under oath of the president, secretary, superintendent or managing officer of a corporation, of a member of a firm, or an individual, containing such information as the commission may require to enable it to arrive at the true cash value of the property of such corporation, firm or individual subject to taxation under the laws of this state, and any assessing officer who shall refuse to deliver his assessment roll upon demand of a member or representative of the commission, or any officer or stockholder of any such corporation, any member of any such firm, or any person or persons who shall refuse to permit said inspection, refuse or fail to make such statement, or neglect or fail to appear before the commission in response to a subpoena, or testify as provided for in this section, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000.00 or by imprisonment in the state prison for a period not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court."

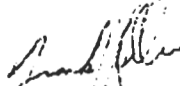
OAG, 1915, p 426 (March 24, 1915), concluded that the State Tax Commission may proceed under 1893 PA 206, § 21; MCLA 211.21; MSA 7.21, against a property owner who refuses to provide requested information with reference to the value of his or her property. Thus, the State Tax Commission has the power to require from a property owner a statement detailing the conditions and the purchase price of real property sold in the State of Michigan.

It is also to be noted that in addition to the powers enumerated above, the State Tax Commission has the power, pursuant to 1893 PA 206, § 148, supra, to issue subpoenas and to compel testimony from witnesses.

1966 PA 134, § 11, supra, to which you have referred, is not relevant to an inquiry concerning the powers and duties of assessing authorities. 1966 PA 134; MCLA 207.501 et seq; MSA 7.456(1) et seq, provides for a tax upon written instruments which transfer

an interest in real property. It is not a part of The General Property Tax Act, 1893 PA 206, supra. Consequently, 1966 PA 134, supra, does not deal with the powers and duties of the State Tax Commission.

It is my opinion, therefore, that the State Tax Commission has the power to require an owner of real property to furnish information as to the purchase price of the property.

  
FRANK J. KELLEY  
Attorney General

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

SCHOOLS AND SCHOOL DISTRICTS:	Annexation subject to vote to approve tax limitation increases in effect in annexing district is permissive
TAXATION:	Uniform levy of total operating taxes of annexing district in territory of annexed school district

The Legislature has not required that an annexation of a school district be conditioned upon approval by the electors of the school district to be annexed of tax limitation increases in effect in the annexing school district.

The territory of the annexed district is subject to the tax limitation increases for operating purposes in effect in the annexing district.

Opinion No. 6141

APR 05 1983

Mr. Phillip E. Runkel  
Superintendent of Public Instruction  
Michigan National Tower  
Lansing, MI 48933

You have requested my opinion on two questions relating to school district annexations under the School Code of 1976, 1976 PA 451, §§ 901 through 912; MCLA 380.901 through 380.912; MSA 15.4901 through 15.4912. In 1976 PA 451, § 901(1), supra, the Legislature has provided:

"A school district shall be annexed to another school district if the board of the annexing school district adopts a resolution approving the annexation and a majority of the school electors of the district to be annexed approve the annexation. The vote on the question shall be by ballot. Before the election is held, the board of the annexing school district shall obtain the approval of the state board of the proposed annexation. The election shall be held within 120 days after passage of the resolution by the board of the annexing school district."

In 1976 PA 451, § 912, supra, the Legislature has provided:

"If a school district which has voted to increase the constitutional limitation on taxes for either building and site or general fund purposes and the term of years for which the millage was voted has not expired proposes to annex a school district, the resolution of the annexing board prescribed by section 901 may provide that the annexation shall become effective only if the school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the same amounts, for the same purposes, and for the same years as are in effect in the annexing school district." (Emphasis added.)

Your first question is whether 1976 PA 451, § 912, supra, is mandatory or permissive. The law is settled that, in the absence of a contrary legislative intent, the word "may" is construed as permissive. Jones v Grand Ledge Public Schools, 349 Mich 1, 8-10; 84 NW2d 327 (1957); Sutton v Cadillac Area Public Schools, 117 Mich App 38, 42; 323 NW2d 582 (1982). Here, no contrary intent has been manifested by the Legislature. 1976 PA 451, § 912, supra, permits a vote in the district to be annexed on a tax limitation increase for the same amounts, for the same purposes, and for the same years as are then in effect in the annexing school district; and annexation may be conditioned upon approval of the tax limitation increase.

It is my opinion, therefore, that 1976 PA 451, § 912, supra, is permissive.

Your second question is whether, in the event of an annexation without such a vote, the territory of the annexed

district is nevertheless subject to the tax limitation increase for school operating purposes previously approved by the electors of the annexing district.

In Hall v Ira Twp, 348 Mich 402; 83 NW2d 443 (1957), the school district electors approved a tax limitation increase. Thereafter, additional territory was added to the school district. The Michigan Supreme Court sustained the imposition of the tax limitation increase on the annexed territory, even though the voters in the annexed territory had not voted upon the increase in the constitutional limitation on taxes.

In OAG, 1961-1962, No 3577, p 66 (March 22, 1961), the territory of a disorganized school district was attached to an operating school district that had previously approved a tax limitation increase for school operating purposes. In such opinion, relying upon Hall v Ira Twp, supra, and upon the constitutional mandate then contained in Const 1908, art 10, § 3 that taxation be uniform, it was concluded that the territory of the disorganized district was subject to the tax limitation increase previously approved by the electors of the operating school district.

OAG, 1965-1966, No 4458, p 167 (November 1, 1965), dealt with a school district reorganization under 1964 PA 289 in which several non-high school districts were attached to an existing high school district that had previously voted a tax limitation increase for school operating purposes. In OAG, 1965-1966, No 4458, supra, p 170, it was concluded:

"Therefore, it is my opinion that the territory of school districts attached pursuant to the provisions of Act 289, P.A. 1964, supra, to a school district in which a tax limitation increase for operating purposes is in effect is subject to such tax limitation increase even though the qualified school electors of the territory so attached have not voted on the question of an increase in the tax limitation."

That conclusion was premised upon the following factors:

1. Approval of a tax limitation increase by the electors establishes a rule of maximum taxation within the school district that the board of education may choose to impose upon the taxable property of the school district. Dearborn Twp School Dist No 7 v Cahow, 289 Mich 643; 287 NW 484 (1939); Rentschler v Detroit Board of Education, 324 Mich 603; 37 NW2d 645 (1949).

2. Const 1963, art 9, § 3 commands that general ad valorem taxation of property be uniform throughout the governmental unit.

3. The Michigan Supreme Court decision in Hall v Ira Twp, supra, sustained the imposition of the tax limitation increase on the annexed territory, even though the voters in the annexed territory had not voted upon the increase in the constitutional limitation on taxes.

4. The Legislature had not imposed any statutory requirement making the attachment of the territory of the school district contingent upon the approval of the qualified electors thereof of a tax limitation increase already in

effect in the school district to which such territory was to be attached.

The same factors apply here. The board of education of the annexing school district has the authority to impose the voted tax limitation increase on the taxable property within the school district. Retschler v Detroit Board of Education, supra.

Pursuant to Const 1963, art 9, § 3, general ad valorem taxation of property must be uniform throughout the school district. Board of Education of Alpena Public Schools v Presque Isle Twp Board, 24 Mich App 48; 179 NW2d 691 (1970); OAG, 1973-1974, No 4817, p 160 (June 24, 1974). The legislative intent that property taxes be uniform throughout the combined school district is expressed in 1976 PA 451, §§ 903(3), 904(4), and 906(3), supra.

The applicability of the Michigan Supreme Court decision in Hall v Ira Twp, supra has not been diminished by adoption of the so-called "Headlee Amendment," Const 1963, art 9, §§ 25-34. Const 1963, art 9, § 31, which bars school districts from increasing the rate of taxes for operating purposes in excess of the fifteen mill limitation imposed by Const 1963, art 9, § 6, in effect on December 22, 1978, without the approval of the school electors, is inapplicable here because the increase in the rate of taxes to be levied by the annexing school district was approved by its electors. The uniformity required by Const 1963, art 9, § 3 commands that such taxes be levied uniformly throughout the annexing school district, including the territory of the annexed school district. The electors of the annexed district, by

approving the annexation, subjected the territory of the annexed district to total taxes for operating purposes in effect in the annexing district.

Furthermore, in 1976 PA 451, §§ 901-912, supra, the Legislature has not imposed any requirement that the annexation be conditioned upon the approval by the electors of the annexed district of the tax limitation increase for school operating purposes that is in effect in the annexing district. The Legislature has authorized, but not required, that annexation be conditioned upon such approval by the electors in the annexed district. 1976 PA 451, § 912, supra.

2 OAG 1956, No 2656, p 412, 413 (July 18, 1956), in response to the question under consideration, stated:

"The people in the area annexed cannot be saddled with an increase above the 15 mill limitation which depends for its validity on an election in which they were not qualified to vote, to wit, an election open only to the electors of the annexing district. Your question must be answered in the negative. Nothing in the new school code requires or authorizes a different conclusion."

However, that opinion was rendered prior to the decision of the Michigan Supreme Court in 1957 in Hall v Ira Twp, supra. Moreover, in 1976 PA 451, § 912, supra, the Legislature has authorized a different conclusion by permitting, but not requiring, that the annexation be conditioned upon the approval by the electors of the annexed district of the tax limitation increase already in effect in the annexing district. The predecessor provision to 1976 PA 451, § 912, supra, was 1955 PA 269, § 445, added by 1957 PA 105.

In answer to your second question, it is my opinion that, in an annexation without a vote on a tax limitation increase in the annexed district, the territory of the annexed district is nevertheless subject to the tax limitation increase for school operating purposes that has been previously approved by the electors of the annexing district.

  
FRANK J. KELLEY  
Attorney General